

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARLVIN JUSTICE,

Plaintiff,

v.

PEOPLE OF THE STATE
OF CALIFORNIA et al.,

Defendants.

No. C 05-4474 PJH

**ORDER OF
CLARIFICATION**

The court is in receipt of an order issued by the Court of Appeals for the Ninth Circuit, filed on May 8, 2006. The order notified the court that proceedings in the Ninth Circuit with respect to plaintiff's appeal will be held "in abeyance pending the district court's resolution of [an] April 3, 2006 pending motion," which the Ninth Circuit has deemed a timely-filed request for extension of time pursuant to Federal Rule of Appellate Procedure 4(a)(4).

Preliminarily, the court notes that it is unclear whether it has further jurisdiction to proceed in the instant action, given that (1) a judgment was filed in the case on March 28, 2006 and (2) plaintiff already filed a notice of appeal on April 3, 2006 (the same day as the above pending motion). Moreover, it is not wholly clear that plaintiff's motion, entitled "Plaintiff's Moves for Lack of Judgement, and to Affirm Appeal Title 28 U.S.C. §1654 – Title 18 U.S.C. § 3682," constitutes a timely-filed motion for extension of time in which to file an appeal. Notwithstanding, and in the interest of allowing plaintiff to prosecute his appeal with all due efficiency, the court hereby construes plaintiff's April 3, 2006 motion as a proper request under Federal Rule of Appellate Procedure 4(a)(4), and rules on the request as follows:

1 Plaintiff's request is GRANTED. Plaintiff now has until ten days after the date of this
2 order in which to file his notice of appeal. See Fed. R. App. Proc. 4(a)(5)(C). Plaintiff is
3 further advised that, with the exception of the notice of appeal to be filed, he is not to file
4 any further filings or motions before this court, as doing so will unnecessarily delay the
5 prosecution of plaintiff's appeal.

6
7 **IT IS SO ORDERED.**

8 Dated: May 16, 2006



PHYLLIS J. HAMILTON
United States District Judge